

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 93-784-T - ORDER NO. 94-581 ✓
JUNE 21, 1994

IN RE: Application of Metropolitan) ORDER GRANTING IN PART
 Environmental, Inc. for a Class) AND DENYING IN PART
 E Certificate.) MOTION TO COMPEL

This matter comes before the Public Service Commission of South Carolina (the Commission) on the Motion to Compel Responses to Interrogatories and Requests for Production of Documents filed by Intervenor, Wills Trucking, Inc. (Wills), whereby Wills, pursuant to the applicable Commission Rules of Practice and Procedure, seeks certain relief in the nature of an Order compelling Metropolitan Environmental, Inc. (Metropolitan or the Applicant) to respond to certain interrogatories and requests for production.

On December 28, 1993, the Applicant filed its Application for authority with the Commission. On January 26, 1994, Wills filed a Petition to Intervene in the instant Docket. On February 2, 1994, Wills served its First Set of Interrogatories and Requests for Production of Documents. On April 22, 1994, the Applicant served its responses to Wills' Interrogatories and Requests for Production. Wills filed its Motion to Compel on June 3, 1994.

In its Motion to Compel, Wills submits that each of the disputed discovery requests seeks information which is relevant and germane to the issues before the Commission or which is likely to

lead to the discovery of relevant and admissible evidence regarding the Commission's determination of the Applicant's fitness, and whether the public convenience and necessity is being adequately served in South Carolina.

The Commission has reviewed Wills' Motion to Compel and the individual interrogatories and requests for production in dispute and finds that Wills' Motion to Compel should be granted in part and denied in part. The Commission concludes that Interrogatory No. 1 is relevant to these proceedings and should be answered by the Applicant at least twenty (20) days prior to the hearing in this matter.

The Commission also concludes that Requests for Production Nos. 5 and 6 should be granted in part. The Commission believes that the Applicant should provide copies of its financial statements and balance sheets for the last fiscal year. Requests for Production Nos. 5 and 6 are denied for the financial statements and balance sheets beyond the last fiscal year as these requests are overly broad.

The Commission further concludes that Request for Production No. 7 which requests copies of all notes and other loan documents between the Applicant and its officers, managers or relatives should be denied as it is overly broad and irrelevant.

The Commission determines that Request for Production No. 14 which solicits copies of rate schedules and tariffs to be used in South Carolina should be granted. The Commission notes that this information must be filed with the Commission before a certificate is issued, and the Commission can ascertain no prejudice to the

Applicant by requiring the Applicant to provide this information at this time.

The Commission also concludes that Request for Production No. 16 should be denied as this request is irrelevant and requesting proprietary information.

The Commission also denies Wills request to dismiss Metropolitan's Application in the event Metroploitan fails to comply with any Commission Order compelling discovery. The Commission always has the discretion to dismiss an Application. However, the Commission declines to grant Wills' request for a provision of automatic dismissal as the Applicant must be afforded notice and an opportunity to respond before an Application may be properly dismissed.

IT IS THEREFORE ORDERED THAT:

1. Wills' Motion to Compel is granted with regard to Interrogatory No. 1, and Metroploitan shall furnish the answers to this interrogatory at least twenty (20) days prior to the hearing in this matter.

2. Wills' Motion to Compel is granted in part and denied in part as to Requests for Production Nos. 5 and 6.

3. Wills' Motion to Compel is granted as to Request for Production No. 14.

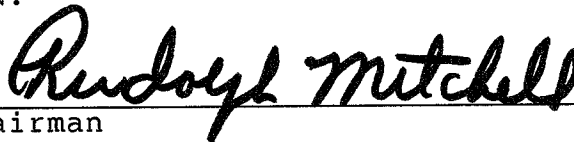
4. Wills' Motion to Compel is denied as to Request for Production No. 16.

5. Wills' request for a provision granting an automatic dismissal of Metropolitan's Application in the event Metropolitan fails to comply with the Commission's discovery orders is denied.

6. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

VICE Chairman



ATTEST:


Executive Director

(SEAL)